



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

## REGION 8

**999 18<sup>TH</sup> STREET- SUITE 300**

**DENVER, CO 80202-2466**

**Phone 800-227-8917**

**<http://www.epa.gov/region08>**

2006 MAY 10 PM 3: 12

FILED  
EPA REGION VII  
HEARING CLERK

**DOCKET NO.: CWA-08-2005-0016**

IN THE MATTER OF:


**CHARLES LINDY DANIELS and  
ATHALENE DANIELS**  
Mineral County, Colorado

RESPONDENT

## FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

DATE \_\_\_\_\_

  
Carol A. LeBoe  
Acting Regional Judicial Officer

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

2006 MAY 10 PM 3:12

FILED  
EPA REGION VIII  
HEARING CLERK

**In the Matter of:**

**Charles Lindy Daniels and  
Athalene Daniels  
Mineral County, Colorado**

**Respondents.**

**CONSENT AGREEMENT**  
Docket No. CWA-08-2005-0016

Complainant, United States Environmental Protection Agency, Region 8, and

Respondents, Charles Lindy Daniels and Athalene Daniels, hereby consent and agree as follows:

1. On April 25, 2005, Complainant issued a Complaint alleging violations of the Clean Water Act (CWA), 33 U.S.C. § 1251 et seq. The Complaint proposed a civil penalty for the violations alleged therein.
2. Respondents admit the jurisdictional allegations of the Complaint only and neither admit nor deny the remaining factual and legal allegations, but are agreeing to settle this matter with EPA in order to spare the time and expense of contesting such allegations.
3. Respondents waive their right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint.
4. This Consent Agreement, upon incorporation into a final consent order, applies to and is binding upon EPA and upon Respondents and Respondents' successors and assigns.
5. This Consent Agreement contains all terms of the settlement agreed to by the parties.
6. Respondents consent and agree to pay a civil penalty in the amount of twenty-five

thousand dollars (\$25,000.00) according to the schedule set forth in paragraph 7, below, by remitting cashier's or certified checks, payable to "Treasurer, United States of America," to:

Mellon Bank  
Regional Hearing Clerk - EPA Region 8  
Lockbox 360859  
Pittsburgh, PA 15251-6859

The checks shall reference the name and address of Respondents and the EPA docket number of this action (CWA-08-2005-0016). A copy of the checks shall be sent simultaneously to:

Regional Hearing Clerk  
U.S. EPA Region 8 (8RC)  
999 18th Street, Suite 300  
Denver, CO 80202-2466

and

Wendy I. Silver  
U.S. EPA Region 8 (8ENF-L)  
999 18<sup>th</sup> Street, Suite 300  
Denver, CO 80202-2466

7. Complainant agrees that Respondents may pay the above penalty according to the following schedule: on or before June 15, 2006, Respondents shall pay \$5,000.00 as directed in paragraph 6, above. On or before the fifteenth (15<sup>th</sup>) day of each subsequent month, Respondents shall pay a minimum of \$500.00 as directed in paragraph 6, above, until the total amount paid to Treasurer, United States of America, under this Consent Agreement equals \$25,000.00.

8. Respondents further agree and consent that if any of the payments described above are delinquent, then the entire unpaid penalty shall become due and owing. Furthermore, interest on the full unpaid penalty amount shall accrue at a rate established by the Secretary of the Treasury

pursuant to 31 U.S.C. § 3717. In addition, a six percent (6%) per annum penalty shall be applied on any principal amount not paid within 90 days after such payment is due.

9. Nothing in this Consent Agreement shall relieve Respondents of the duty to comply with the CWA and its implementing regulations or any compliance order issued under the CWA.

10. Failure by Respondents to comply with any of the terms of this Consent Agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

11. Nothing in this Consent Agreement shall be construed as a waiver by the U.S. EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondents' failure to perform pursuant to the terms of this Agreement.

12. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

13. Each party shall bear its own costs and attorneys fees in connection with this matter.

14. This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

In the Matter of Charles Lindy Daniels and Athalene Daniels Docket No. CWA-08-2005-0016

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,  
Complainant.

Date:

2 May 2006

By:

Michael T. Risher  
Michael T. Risher, Director  
David J. Janik, Supervisory Enforcement  
Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance, and  
Environmental Justice

Date:

By:

Diāne L. Sipe  
Diāne L. Sipe, Director  
Technical Enforcement Program

Date:

5/4/06

By:

Wendy I. Silver  
Wendy I. Silver  
Enforcement Attorney

CHARLES LINDY DANIELS AND  
ATHALENE DANIELS,  
Respondents.

Date:

4/27/06

Charles Lindy Daniels  
Charles Lindy Daniels

Date:

4/27/06

Athalene Daniels  
Athalene Daniels

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **CHARLES LINDY DANIELS and ATHALENE DANIELS., DOCKET NO.: CWA-08-2005-0016** was filed with the Regional Hearing Clerk on May 10, 2006.

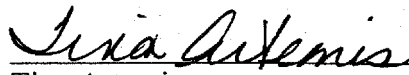
Further, the undersigned certifies that a true and correct copy of the document was delivered to Wendy Silver, Enforcement Attorney, U. S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on May 10, 2006, to:

Charles Lindy Daniels  
Athalene Daniels  
c/o Rio Vista Realty  
29327 W. US Highway 160  
South Fork, CO 81154

And pouch mailed to:

Judge Spencer T. Nissen  
Office of Administrative Law Judges (1900L)  
U. S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

May 10, 2006

  
Tina Artemis  
Regional Hearing Clerk



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